MINISTER OF FORESTS FIRST NATIONS FORESTRY WORKSHOP

October 17, 2002 **Richmond, BC**

Workshop Notes

Theme: Challenges and opportunities facing First Nation forestry ventures and means of increasing First Nation participation in the forest sector.

Host: Minister of Forests, the Honourable Michael de Jong

Workshop facilitator: Garry Merkel

Opening Prayer: Earl Smith

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Panel 1: Case Studies
First Nation/Industry Partnerships: What worked? What hasn't worked?

Panellists:

- Ditidaht First Nation and Hayes Group (Jack Thompson Jr. and Harold Hayes)
- Cheslatta First Nation and Ootsa Resources (Mike Robertson and Wes Bohmer)
- Tanizul Timber Limited (Ed John and Thomas Pierre)

Format: Each panellist gave a brief presentation on First Nations/industry partnerships and what worked and did not work in joint ventures of this type. This was followed by a question period led by the Minister.

Summary of Challenges:

- Maintaining and creating sustainable, long-term employment as opposed to short-term jobs.
- Balancing values may not be the easiest (for example, balancing cultural heritage and historical values versus business goals).
- Keeping in mind that forestry is a competitive business. You need to keep an eye on "the bottom line".
- Exercising patience and caution in all business ventures.
- Knowing the difference between politics and business, and maintaining a clear separation of the two.
- Choosing partners carefully and researching partners background thoroughly.
- Accessing sufficient funding support is required to meet capacity issues.
- Forming alliances, developing relationships and working together (i.e. to get the volume for capital for equipment and manufacturing).
- Fostering dialogue among parties (First Nations/government/industry) on a periodic and regular basis. The example of the Ministry of Children & Families - children in care – was used.
- Exploring other agencies' and governments' ability to assist. (The Economic Measures Fund sec 12 - no litigation clause – was raised as an issue of concern for First Nations.)
- Watching out for roadblocks from other government ministries and agencies, including non-governmental organizations (NGOs).
- Evaluating short-term benefits (i.e. of Mountain Pine Beetle) versus long-term issues.
- Rising stumpage rates, limited markets, trade disputes are having strong negative effects, particularly on smaller operators like First Nations.
- Exploring revenue sharing and co-management and compensation.

During the presentations, the following points were cited as important to the success of First Nation/industry partnership arrangements:

- Keeping politics out of business.
- Having a business plan.
- Having a bottom line and keeping track of it - Enlightened economic self-interest.
- Keeping an open mind.
- Being positive.
- Being proactive.
- Being efficient.

- Being predictable and consistent.
- Communicating (with partners).
- Seeking and sharing information with others (in similar ventures/partnerships).
- Watching expectations and ensuring they are reasonable.
- Being realistic about resources
- Having mutual trust and respect.
- Examining potential partners and consultants carefully.
- Building capacity in all areas of the industry.

Panel 2: Challenges and Opportunities within the Forest Sector

Panellists:

- Earl Smith, AFIC/Hayes Group
- David Walkem, Nicola Tribal Association and Chief Cook's Ferry Indian Band
- Craig Campbell, PricewaterhouseCoopers
- Ian Harvey, British Columbia Institute of Technology
- Bruce McRae, Ministry of Forests
- Bill Bourgeois, Lignum Limited

Format: Minister de Jong opened the discussion by emphasizing the need to foster communications between parties. He also discussed some of the challenges of this communication since there is only one Minister of Forests and many First Nations' bands. Panellists then gave short presentations outlining the difficulties facing First Nations in the forest sector and the opportunities that may be available to them. This was followed by a question period led by the Minister.

Observations on Ministry of Forests' initiatives, the forest sector and First Nations included the following:

- Forestry is a big business in the Province and interacts with First Nations' relationship to the land.
- Ministry of Forests has a focused mandate and operates on the premise of fair and open award of tenure. However, there has been a shift in government direction (New Era) and it may be beneficial for the Ministry of Forests to revisit its policies.
- The ministry has looked at forest policy with respect to direct award (Bill 41) and issues such as stumpage rates.
- There are some good short-term opportunities for First Nations, such as the Mountain Pine Beetle (MPB) uplift. These short-term opportunities do not, however, answer certain major concerns of First Nations entering the forestry sector.

<u>Challenges:</u>

Capacity

- One of the major challenges facing First Nations is the need to develop capacity in a wide range of areas, including financial capacity and management.
- Sources of funding for capacity issues include such initiatives as the First Citizens Fund. Some funding sources, including the Province's new Economic Measures Fund, were felt to have too many strings attached to them.

- These funds can facilitate building business partnerships or facilitate the development of joint ventures, which in turn can help develop capacity.
- Capacity can develop through respectful working relationships. It involves:
  - preparation, planning and acknowledging those that assist you;
  - time, commitment, trust and communication;
  - integrity, respect and honesty in agreements;
  - trust and judgement and courage to stay the course; and
  - yielding to the next generation

Business Climate

- The current business climate in the forestry sector is volatile. It is a difficult time for not only First Nations in the sector but also for all of the enterprises operating in this climate. However, there are advantages in BC at this time including the low interest rates and the exchange rate with the USA.

Accessing Allowable Annual Cut (AAC)

- There are both challenges and opportunities for First Nations' groups to access AAC. Options for First Nations to acquire AAC for their forestry ventures could include:
  - subdivide, temporary borrowing,
  - direct award less than 2000 m3, AAC surpluses,
  - FS Reserve, undercuts and
  - access to tenures through the competitive process such as Forest Licences, Timber Sale Licences or Community Forest Pilot Agreements.
- Short-term options such as Small Business or uplift with MPB, salvage, extraordinary uplifts and fire were also identified as potential sources of timber. However, these are not long-term.
- Bill 41 was discussed and was seen as being well intentioned, but its linkage to clause 12 of TNO's Economic Measures Fund – no litigation - was seen by First Nations and industry as an impediment to potential forestry ventures.

Political Will

- It was seen as a challenge to Government to take the politics out of the business and set the stage for First Nations to enter the forestry sector.

<u>Opportunities</u>

Partnership Arrangements

- Six key ideas for a successful joint venture arrangements were identified:

1. Trust and respect by partners
2. Common goals
3. Implementation must be consistent with capacities throughout the relationship.
4. Success measured over the long term. Start small and build.
5. Adequate funding is essential to implement the relationship.
6. Communication and joint decision making.

<u>Challenges to successful partnerships include:</u>

- Building trust and respect prior to a partnership arrangement. This can be done through the use of Memorandum of Understanding and protocol agreements particularly when developing goals.

- Defining common goals.
- Evaluating capacity within the parties.
- Agreeing on measures of success – short, medium and long-term.
- Finding the required funding and providing incentives for those that have the funding.
- Developing relationships and creating trust.

Summary of Panels

- There is the will on behalf of the provincial government and First Nations to increase First Nations' participation in the forest sector. Both parties are aware there may be potential problems, but they have also shown a desire to build on their experiences and move forward.
- The workshop provided a good forum to begin communications, start a process and build on the successes, experiences and failures of the past.
- A unified voice for First Nations would allow them to make their concerns heard more effectively.
- A task force, made up of First Nations, government and industry, should be formed. This could consist of an on-going panel, which sits often, to discuss barriers to First Nations entering the forest sector as well as looking at potential opportunities for them.
- Capacity remains an area of concern to First Nations and represents one of the major challenges to their participation in the forest sector. Partnership arrangements with suitable industry partners were seen as a potential means of building capacity. Resource sharing and tenure opportunities for First Nations were also mentioned.
- First Nations and industry saw the linkage between clause 12 and Bill 41 as an impediment to increasing First Nation's participation in the forest industry, particularly through joint ventures.
- There is a potential for First Nations to help market BC, and achieve a level of economic success, if they were meaningful participants in the forest sector.
- Key items and issues arising from the workshop will be analyzed and prioritized in order to design a plan to increase First Nations' participation in the forest sector.

Breakout Groups

Format: The workshop participants split into five groups to discuss selected topic areas. Each group was tasked with outlining a set of recommendations for their topic area.

Breakout Group 1 – Topic – What structure and process do the Minister and First Nations use to discuss forest policy issues? How do we co-operatively following up (using above) on this session (action plan, communications, what kind of structures would work?)

Hopes and Desires:

- Direct access to Minister of Forests or access to someone that will listen and can effect changes. Recognition.
- A serious government commitment to deal with issues raised at workshop.
- Meetings or forums between government/First Nations representatives that occur on a regular basis (e.g. 3 times a year with proper notice).
- Development of a unified voice on First Nations forestry business issues (AFIC was suggested as a possibility).
- Desire on the part of First Nations to be a part of the policy changes right from the start, to participate in effecting legislative development (e.g. RB Code, Bill 41) and to be involved in a meaningful way in planning processes.
- A long-term plan to increase First Nations' access to timber/volume and to increase participation in forest sector (preferably locked in legislation). A commitment from government to implement such a plan.
- Any plan or processes should be top-down and put into effect immediately.
- That the workshop not be put forward as consultation with First Nations.

Fears and Concerns:

- Issues of distrust and the feeling on the part of First Nations that there is nobody in government to listen to their concerns.
- Fear that the workshop or other similar forums would serve to distract First Nations from their long-term rights and title issues.
- Concern over the Minister's comment that he cannot meet with all bands individually when he is, in fact, doing that with some bands.
- Fear that the desire for individual autonomy will be an obstacle to a unified voice for First Nations with respect to forestry issues. Past record shows the challenge in getting a unified voice.
- Issues over what a constitutes a unified voice for First Nations.
- Fear that all concerns may not be represented if there was a unified voice for First Nations.
- Concern about what will happen if the processes initiated due to the workshop backfire. What happens then?
- Fear that the government will put forward the workshop as consultation with First Nations.

Principles of a Process to Increase First Nations' Participation:

- Recognition of diversity.
- Recognition of the various levels of capacity of the First Nations.
- Regional representation as a mechanism to address diversity. A mechanism to appoint First Nations representatives to the process.

- Regular meeting schedule with an accessible and open format. The Children and Families protocol (Minister Hogg's) was cited as an example.
- A commitment by the Minister of Forests not to make any changes outside the process.
- Funding for the process.
- A set of principles developed through an inclusive process.
- A process that will handle setbacks and backfires.

Priorities for consideration:

- Policy/legislation that delivers on fibre to First Nations.
- Policy/legislation change to allow First Nations to obtain tenure.
- Reallocation of a reasonable amount of the AAC (i.e. 20%) in tenure form to First Nations.
- A communication strategy, possibly a First Nations Forestry Web Page (maybe lead by the Ministry of Forests).
- Possible political organizations that may be useful in developing the process include: PG/Business Development Group (ECDEV), MCF: First Nation Summit, UBCIC, UN Nations, Metis Association, ONA, COFI, AFIC, Turning Point Initiative (TPI), OKNTC, CSTC, NW Coastal Group, Kaska "Forest Policy Group", TPI and others, National AFA, AFN, First Nation Treaty Alliance.

Breakout Group 2 – Topic – How do we address the First Nation Capacity Issue?

Who can help build capacity? How can this be accomplished?

- Formal training institutions - for example, British Columbia Institute of Technology (BCIT) or Nicola Valley Institute of Technology (NVIT) - that specialize in community training, preferably with a First Nation focus in the programs. (Aboriginal Land Stewardship – Malaspina)
- On the job training or job shadowing with an industry partner.
- Training/capacity building as part of a business plans.
- Consulting firms hired to transition capacity to First Nations.
- Regional delivery of education from training centres.
- Certified courses delivered on reserves or in Aboriginal communities.
- Joint venture agreements with terms and conditions to develop management capacity of First Nations. JV agreements must have a sunset clause (3, 5, 7, 10 years).

What are some key issues in addressing First Nation capacity?

- Needs assessment (linked to the business plan).
- Opportunity for First Nations to move vertically and horizontally within employment.
- Aboriginal liaison position or similar position in the Ministry of Forests to assist First Nations in communicating needs and concerns.
- Community health would lead to more local employment.
- Available community forestry education (bring the educators to the community rather than sending the students to distance learning institutions).
- Money for training is often short term.
- Cost of capacity at start up for training workers increases costs. However, a licence offer without capacity is doomed to failure.

Recommendations

- Revenue sharing to help finance capacity building costs (up front). This could be done as stumpage offsets against an approved capacity development strategy to avoid the perception of subsidies and the politics associated with aboriginal rights, title and treaty.

- Long-term viable secure wood supply to help to finance start up costs, including capacity building, as well as leading to more long-term jobs.
- Business plan with capacity building/training plan built in.
- First Nation networking on capacity to allow for the sharing of experience and knowledge.
- A funded government-to-government relationship to allow for better communication between First Nations and government.
- Capacity building opportunities that cover a full range of options not just timber harvesting.
- Greater opportunity for First Nations people to work with licensees.

Breakout Group 3 – Topic – How do we improve the current instruments for increasing First Nation participation in tenures? For example, Economic Measures, Treaty Related Measures, Interim Measures, No litigation/S. 12 policy

Current instruments for Increasing First Nation Participation in the Forest Sector:

- Bill 41 – Direct Award Legislation
- BCTS/SBFEP
- 5% takeback
- Interim Measures/Economic Measures Fund
- Aboriginal Rights and Title/Treaty Process
- Management within Parks
- Reallocation of planning cells
- Woodlot licence
- Direct Award (2000 m3)
- Stumpage relief
- Temporary Surrender Section 61
- Beetle Uplift
- Undercut/penalties
- Timber Supply Review (AAC increase)
- Federal Reserve Lands
- Private land
- Incentive wood
- Partnerships
- Joint Ventures – revisiting tenure

Bill 41 Issues

- Policy and Process
- Timeframe
- Tools, political will
- Clear definitions
- Unilateral legislation
- Pre-conditions: Constitutional validity, section 12 of TNO's Economic Measures Fund

Timber Volume Availability Issues

- Tenure size and term (economy of scale). Term and size of tenure must be economically viable and renewable – community/land/area based – sustainable.
- Tenures are usually non-replaceable.
- Non-renewable licenses are not bankable.

Recommendations

- Identify, breakdown and remove obstacles in policy, legislation and regulations in order to reallocate volume. Strike a panel – First Nations, Ministry – to do this.
- Petition the Minister of Forests to exercise his authority to re-apportion timber to First Nations as tenure.
- Remove linkage between clause 12 and Bill 41.
- Develop ways to access capital funding to develop and implement business plans.

- Develop/explore real revenue generation opportunities to service investment and business expansion debt.
- Provide fair and equitable opportunities to access government money.
- Allow for First Nation control of non-timber forest products (licensing, permitting).
- Encourage federal participation.
- Explore revenue sharing opportunities.
- Revisit stumpage fees.

Breakout Group 4 – Topic – How can First Nations collaborate with each other and the Province on Marketing? Integration with current industry initiatives. Aboriginal certification.

Issues in developing First Nation's marketing include:

- First Nations will need to be full and equal partners in the forestry sector.
- First Nations need to create strategic alliances.
- Copyright issues.
- Niche markets need to be explored.
- If First Nations/industry/government can stand together, it will show that BC can deal with the issues in the province. However, we are not there yet.

What options are available for First Nations to be involved in marketing?

- Market First Nation culture as part of trade missions – holistic view of the forest.
- Market First Nation stewardship.
- Market homegrown certification. There is an opportunity to develop a unique First Nation certification scheme (Turning Point Principles). Existing certification schemes tend to be "flavour of the week".

Recommendation:

- First priority is to work on building relationships (with government and industry).
- First Nations need to be partners in the forest sector to support marketing BC. There is little incentive to be involved in marketing at the current time since there is little First Nation's stake in the forestry sector.

Breakout Group 5 – Topic - How can we address First Nations' difficulties in accessing financing and securing capital?

Who are the key players?

The following list was identified as potential sources of financing for First Nations' ventures:

- Federal, provincial and municipal governments
- Industry
- Band/tribes
- Economic development corporations
- Pension plans
- Direct dollars related to
- Capital lending corporations, banks
- Private partners
- Foundations/eco-trusts
- Other First Nations with money to invest (US tribes, other indigenous groups) or other individual or groups with money to invest
- Bingos/casinos
- Suppliers of specific products – lease

energy/resource development

- Rebates/stumpage allowance, programs like FRBC
- Aboriginal Business Program/Western Diversification

arrangements, discounts for long-term arrangements

- Tenure/licence (replaceable) used as collateral. Can attach to value of timber
- Municipal Financing (operating out of Victoria) has a large amount of funds available. It distributes loans to local government. First Nations can access this funding.

Issues

- In order to make capital expenditures, First Nations need a source of revenue or collateral. Access to long-term tenure can assist in bridge financing.
- There is a need for incentives for people to help First Nations' communities. For example, industry has incentives for joint venture, therefore they will often provide financing (tenure as collateral).
- Federal/provincial will not fund capital expenses on reserve land. This leads to issues with on reserve land and federal/provincial programs. It is often difficult to fit First Nation's forestry into government programs. There is a need for less bureaucracy and more simplified criteria for First Nations' communities and ventures.
- Federal programs are available for capital start up (Equity Gap Programs, Aboriginal Business Canada). However, existing government programs – both federal and provincial - do not facilitate access for First Nations and often do not often provide what they promise. Criteria can be time consuming and complicated, programs uncoordinated and timelines unreasonable.
- Barriers exist for small/rural/northern communities that have a hard time accessing government programs and bank financing.
- Private financial institute and banks do not like to finance rural forestry venture and small-scale ventures also have difficulty. Small communities, like First Nations' communities have difficulty getting funding.
- Large environmental groups can hinder rural communities or northern areas targeted for forestry or mining. First Nations have to be careful who provides them with funds, since their goals may be different.
- Funding for silviculture, on-the-ground forestry (spacing/brushing) not as readily available as before (under FRBC). This work traditionally employs lots of people.
- Current Ministry of Forests policies can hinder First Nation business ventures. For example, financing for silviculture bonds, financial responsibilities involved in having tenures. Also mega-forest districts mean that there are no more small contracts for silviculture and First Nations ventures find it hard to bid on large scale contracts. Therefore, there are fewer opportunities for First Nations.
- Treaty loans are deficits for First Nations and the debt load make it hard to improve economically.
- Funding often goes to non-community members, rather than being allowed to grow with programs in the communities.

Recommendations

- Assemble a group of First Nations' and industry partners to examine options to access capital. The team would examine all programs and funding available and look at any string attached to funding i.e. funding from environmental groups. Members of the group would be First Nation people and industry partners that are successful in their own right and their own communities.

- Build on local successes and examine local problems in First Nation communities.
- Capacity building/support for First Nations who want to build small businesses up or build small forestry ventures should be available at the grassroots level. There is a need to be prepared with business skills at the grassroots to ensure success.
- Provide a monitoring period after funding and after the Aboriginal business is established to explore how to keep it going. (It was noted that the First Citizens Fund does have a monitoring period of 1 year after loan completion – follow-up program.)
- Evaluate First Nations' ventures on its value to the community in terms of employment and stability not just profit.
- Ministry of Forests should offer more replaceable FL rather than short-term licenses. This would provide sustainability.
- Provide a more co-ordinated government efforts to assist First Nations. Also there is a need for more co-ordination between ministries.
- More regional and district offices – satellite offices - for both provincial and federal departments since it is not always easy for First Nations to travel to larger centres.
- Province needs to be more flexible in policy to allow ventures and partnerships to exist.
- Recruit more aboriginal people into Ministry of Forests particularly into positions of power/authority. Have someone who can make a decision. Make ADM level position (s) to deal specifically with aboriginal issues.
- Claw backs should not only be given only to treaty First Nations. Need opportunities for all.

Summary of key issues from discussions

The following summarizes the workshop organizers' understanding of the key issues (including some preliminary suggestions) identified during the workshop.

1. How do we follow up with an action plan developed from the workshop, and how do we update the plan over time?
2. A mechanism needs to be developed for the Minister of Forests and First Nations to effectively discuss key policy issues. Factors that must be considered include First Nations' agreement and support, practicality, time and resource constraints (particularly of the Minister) and the ability to make timely decisions. Participants suggested looking at what was done in the Child and Family sector for ideas in creating this mechanism.
3. Capacity development is a key issue. Options need to be explored to address this including the idea of using a stumpage offset against an approved capacity development plan.
4. The ongoing implementation of Bill 41 needs to be looked at, possibly through a First Nations – Ministry expert panel.
5. Section 12 of the Economic Measures Agreement needs to be addressed. As a starting point it needs to be de-linked from Bill 41.
6. First Nations can offer significant benefits in assisting to market the BC forest sector to the world. However, First Nations need to feel a greater sense of ownership in the sector in order to offer this support.
7. Ways to improve First Nations' access to financing for large capital ventures, such as forestry, need to be explored. May look at an Industry Task Force for this task.
8. The Ministry needs to visibly elevate First Nations in its organization, possibly by creating an ADM for First Nations' issues.
9. This event should not end here. We may want to look at another 2-day session in winter or early spring. One format that was suggested would see the first day as a planning session among First Nations and the second day as a meeting involving senior government (including the Minster).

First Nation Forestry Workshop
October 16/17 2002
Vancouver

Theme:

- Increasing First Nation participation in the forest sector.

Format:

- Pre-conference working dinner
- One-day workshop on the challenges and opportunities facing First Nation forestry ventures.
- Focus is on panel presentations and working group breakout discussions. A consultant will be hired to facilitate the workshop.
- Findings will be presented to the Minister of Forests at workshop close.

October 16

- Registration and Reception – 5 p.m. to 6 p.m.

- Pre-conference dinner – 6 p.m. Welcome and opening comments by the Minister of Forests

October 17

Opening comments by conference facilitator, Garry Merkel.

8:15 – 10:00 am:

Panel 1 –Case Studies – First Nation/Industry Partnerships – What worked? What hasn't worked?

- Panels will be made up of representatives of First Nation/industry joint ventures. Each member will make a brief presentation. The presentations will be followed by questions.

10:00 – 10:30 am: – Break

10:30 – 12 noon:

Panel 2 – Challenges/Opportunities within the Forest Sector

- Panels will be made up of representatives of First Nation/industry joint ventures. Each member will make a brief presentation. The presentations will be followed by questions.
- Minister to do introduction regarding challenges in the foresty sector and the tools that the Ministry of Forests has to help increase participation in the forest sector.

First Nation Forestry Workshop
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Vancouver

12:00 – 1:00 pm: – Working Lunch

1:00 pm – 3:30 pm

Breakout groups

- Based on the morning presentations, the conference facilitator will pull out 3-5 themes for breakout discussions. This will present workshop participants with the opportunity to provide feedback for the Minister's consideration.

3:30 pm – 4:15 pm:

- Presentations to Minister on the findings of the breakout groups.

4:15 pm – 4:30 pm:

- Closing comments by the Minister.